APPENDIX

Act of June 10, 1890, 26 Stat. 131, as amended by the Act of May 27, 1908, 35 Stat. 403, provides, in part, as follows:

> SEC. 14. That the decision of the collector as to the rate and amount of duties chargeable upon imported merchandise, including all dutiable costs and charges, and as to all fees and exactions of whatever character (except duties on tonnage), shall be final and conclusive against all persons interested therein, unless the owner, importer, consignee, or agent of such merchandise, or the person paying such fees, charges, and exactions other than duties, shall, within fifteen days after but not before such ascertainment and liquidation of duties, as well in cases of merchandise entered in bond as for consumption, or within fifteen days after the payment of such fees, charges, and exactions, if dissatisfied with such decision, give notice in writing to the collector, setting forth therein distinctly and specifically, and in respect to each entry or payment, the reasons for his objections thereto, and if the merchandise is entered for consumption shall pay the full amount of the duties and charges ascertained to be due thereon. Upon such notice and payment the collector shall transmit the invoice and all the papers and exhibits connected therewith to the board of three general appraisers, which shall be on duty at the port of New York, or to a board of three general appraisers

who may be designated by the Secretary of the Treasury for such duty at that port or at any other port, which board shall examine and decide the case thus submitted, and their decision, or that of a majority of them, shall be final and conclusive upon all persons interested therein, and the record shall be transmitted to the proper collector or person acting as such, who shall liquidate the entry accordingly, except in cases where an application shall be filed in the circuit court within the time and in the manner provided for in section fifteen of this Act: *Provided, however,* That the board of three general appraisers, or a majority of them, who decided the case may, upon motion of either party, within thirty days next after their decision, and not afterwards, grant a rehearing of said case when, in their opinion, the ends of justice may require it.

The general board of nine general appraisers shall have power to establish from time to time such reasonable rules of practice, not inconsistent with the law, as may be deemed necessary for the conduct of their proceedings and of the proceedings of the said board of three general appraisers, and to assign or reassign any case to any of such boards of three at any time before promulgation of decision, in order to secure uniformity of decision.

SEC. 15. That if the owner, importer, consignee, or agent of any imported merchandise, or the collector, or the Secretary of the Treasury, shall be dissatisfied with the decision of the board of general appraisers, as provided for in section fourteen of this Act, as to the construction of the law and the facts respecting the classification of

such merchandise and the rate of duty imposed thereon under such classification, they, or either of them, may, within thirty days next after such decision, if a rehearing has not been previously granted, or within thirty days next after the decision of the board of general appraisers after such rehearing, and not afterwards, apply to the circuit court of the United States within the district in which the matter arises for a review of the questions of law and fact involved in such decision. Such application shall be made by filing in the office of the clerk of said circuit court a concise statement of the errors of law and fact complained of, and a copy of such statement shall be served on the collector, or on the importer, owner, consignee, or agent as the case may be. Thereupon the court shall order the board of general appraisers to return to said circuit court the record and the evidence taken by them, together with the certified statement of the facts involved in the case, and their decision thereon; and all competent evidence taken by and before said board of general appraisers shall be evidence before said circuit court. The parties litigant shall hereafter be required to introduce all of their evidence before the said board of general appraisers prior to its decision of the case. The return made by the board of general appraisers in pursuance of the order of the circuit court shall constitute the record upon which said circuit court shall give priority to and proceed to hear and determine the questions of law and fact involved in such decision respecting the classification of such merchandise and the rate of duty imposed thereon under such classification: *Provided,* That the said circuit

court is further vested with the power to remand any case pending before it on appeal from a decision of the board of general appraisers when, in its opinion, such proceeding is just and proper, but this shall not be ordered except upon motion duly made and after notice to the opposite party. When such order is made the case shall then be remanded to the board of general appraisers whose decision has been appealed from, and the said board shall hear such further testimony as shall be introduced by either party, and shall return to the circuit court the additional evidence so taken, together with a further certified statement of facts as supplemented or modified by such additional testimony, and their decisions upon the whole case as thus supplemented or modified, which said additional return shall be added to and become part of the record upon which the case shall be heard and determined by the circuit court.

The decision of such circuit court shall be final, and the proper collector, or person acting as such, shall liquidate the entry accordingly, unless such court shall be of the opinion that the question involved is of such importance as to require a review of such decision by the circuit court of appeals of the United States within the circuit in which the matter arises, in which case said circuit court or the judge making the decision may, within thirty days thereafter, allow an appeal to said circuit court of appeals; but an appeal shall be allowed on the part of the United States whenever the Attorney-General shall apply for it within thirty days after the rendition of such decision. On such original application and on any such appeal security for

damages and costs shall be given as in the case of other appeals in cases in which the United States is a party. Said circuit court of appeals shall have jurisdiction and power to review such decision, and shall give priority to such cases, and may affirm, modify, or reverse such decision of such circuit court and remand the case with such orders as may seem to it proper in the premises, which shall be executed accordingly.

The decision of such circuit court of appeals may be reviewed by the Supreme Court of the United States in any of the ways provided in cases arising under the revenue laws by the Act approved March third, eighteen hundred and ninety-one, entitled "An Act to establish circuit courts of appeals, and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes."

All final judgments, when in favor of the importer, shall be satisfied and paid by the Secretary of the Treasury from the permanent indefinite appropriation provided for in section twenty-four of this Act.

For the purposes of this section the circuit courts of the United States shall be deemed always open, and said circuit courts, respectively, may establish, and from time to time alter, rules and regulations not inconsistent herewith for the procedure in such cases as they shall deem proper.

Where cases arise at ports within any jurisdiction having no circuit court, applications for review of the decisions of the board of general appraisers provided for in section fifteen of this Act shall be filed with the clerks of the courts having cog-

nizance of the same classes of cases as circuit courts, and such cases shall be heard and determined by such courts, with the same powers and in like manner as herein provided for the hearing and determination of such cases in circuit courts, and such decisions shall be subject to review in the manner provided by law.

* * * * *

SEC. 24. That whenever it shall be shown to the satisfaction of the Secretary of the Treasury that, in any case of unascertained or estimated duties, or payments made upon appeal, more money has been paid to or deposited with a collector of customs than, as has been ascertained by final liquidation thereof, the law required to be paid or deposited, the Secretary of the Treasury shall direct the Treasurer to refund and pay the same out of any money in the Treasury not otherwise appropriated. The necessary moneys therefor are hereby appropriated, and this appropriation shall be deemed a permanent indefinite appropriation; and the Secretary of the Treasury is hereby authorized to correct manifest clerical errors in any entry or liquidation, for or against the United States, at any time within one year of the date of such entry, but not afterwards: *Provided,* That the Secretary of the Treasury shall in his annual report to Congress, give a detailed statement of the various sums of money refunded under the provisions of this act or of any other act of Congress relating to the revenue, together with copies of the rulings under which repayments were made.

U. S. GOVERNMENT PRINTING OFFICE: 1940